

Message Text

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ORIGIN TRSE-00

INFO OCT-01 EUR-12 IO-10 ISO-00 L-02 FRB-03 OMB-01 TAR-01

SP-02 AGR-05 AID-05 CIAE-00 COME-00 EB-07 INR-07

LAB-04 NSAE-00 RSC-01 SIL-01 STR-01 CIEP-01 CEA-01

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DRAFTED BY TREAS:RSELF

APPROVED BY EB/OT/STA:WCLARK, JR.

EB/OT/STA:ECONSTABLE

EUR/RPE:JMCCARTHY

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P R 072038Z FEB 75

FM SECSTATE WASHDC

TO AMEMBASSY PARIS PRIORITY

INFO AMEMBASSY LONDON

USMISSION EC BRUSSELS

AMEMBASSY BRUSSELS

AMEMBASSY ROME

AMEMBASSY BONN

AMEMBASSY DUBLIN

AMEMBASSY COPENHAGEN

AMEMBASSY THE HAGUE

AMEMBASSY LUXEMBOURG

USMISSION OECD PARIS

USMISSION GENEVA

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E.O. 11652: N/A

TAGS: ETRD, EC

SUBJECT: COUNTERVAILING DUTY INVESTIGATION: FLOAT GLASS

REF: PARIS 2725

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1. WITH REGARD TO SCOPE OF FLOAT GLASS COUNTERVAILING COMPLAINT, CASE DOES NOT REPEAT NOT INVOLVE THE QUESTION OF THE REBATE OF THE VALUE ADDED TAX AND THIS HAS BEEN COMMUNICATED TO CUSTOMS REPRESENTATIVES IN CHARGE OF OVERSEAS INVESTIGATION. HOWEVER, CUSTOMS REPRESENTATIVES MAY BE ASKED TO RAISE MORE SPECIFIC QUESTIONS RELATING TO PETITION. TREASURY OFFICIALS SEE NO BASIS FOR CALLING OFF INVESTIGATION IN CASE AS SUGGESTED BY EMBASSY.

2. TREASURY APPRECIATES EMBASSY AND FRENCH CONCERN-OVER FLOAT GLASS COUNTERVAIL COMPLAINT AND POTENTIAL ATTENDANT REPERCUSSIONS IN UPCOMING MTN'S. HOWEVER, TREASURY FINDS THE U.S. COUNTERVAILING DUTY LAW CLEARLY APPLICABLE TO CERTAIN ASSISTANCE PROGRAMS SUCH THE THOSE ALLEGED IN FLOAT GLASS COMPLAINT. COMPLAINT BY ITSELF DOES NOT ESTABLISH THAT SUCH FORMS OF INDIRECT ASSISTANCE ARE COUNTERVAILABLE, BUT RAISES QUESTION IN FORM WHICH WARRANTS INVESTIGATION.

3. U.S. IN THE PAST HAS COUNTERVAILED SUBSIDY PROGRAMS WHICH WERE NOT DESIGNED AS EXPORT PROMOTION DEVICES. CANADIAN MICHELIN CASE IS CLASSIC EXAMPLE. LANGUAGE OF COUNTERVAILING DUTY LAW REQUIRES THAT TREASURY TAKE INTO ACCOUNT THE EFFECT AS WELL AS INTENT OF ANY ASSISTANCE PROGRAMS. KEY FACTOR WILL BE EXTENT TO WHICH BENEFICIARIES ARE ENGAGED IN EXPORT, NOT NECESSARILY THE VOLUME OF U.S. IMPORTS FROM FRANCE.

4. WITH REGARD TO EFFECTS ON MTN'S, MANDATORY NATURE OF AMENDED COUNTERVAILING DUTY LAW DOES NOT PLACE U.S. IN A POSITION TO CONSCIOUSLY BUILD A CASE FOR RAISING CERTAIN ISSUES IN MTN'S OR ACTIVATING SPECIAL INVESTIGATIONS. (SOME CASES WILL OF COURSE BE MORE MTN SENSITIVE THAN OTHERS). ONCE A PETITION IS RECEIVED IN SATISFACTORY FORM, TREASURY MUST PUBLISH NOTICE OF RECEIPT OF SUCH PETITION IMMEDIATELY AND COMMENCE INVESTIGATION. STRICT TIME LIMITS REQUIRE EXPEDITIOUS INVESTIGATIONS, AND JUDICIAL REVIEW PROCEDURE SUBJECTS TREASURY DETERMINATION TO SCRUTINY BY COURTS.

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5. AS EMBASSY AWARE, THE AMENDED LAW ALLOWS 4 YEAR DISCRETIONARY PERIOD TO REFRAIN FROM COUNTERVAILING SO AS NOT TO SERIOUSLY JEOPARDIZE MTN'S IF CERTAIN CONDITIONS ARE MET. TUS A MECHANISM EXISTS IN THE AMENDED LAW TO TAKE CONCERNS EXPRESSED PARAGRAPH 3, REFTEL INTO ACCOUNT IN LIMITED NUMBER OF CASES SHOULD CONDITIONS OF DISCRETIONARY PROVISION BE MET. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COUNTERVAILING DUTIES, INVESTIGATIONS, FLOAT GLASS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 FEB 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE028621
Document Source: CORE
Document Unique ID: 00
Drafter: RSELF
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750046-0235
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750261/aaaaccxn.tel
Line Count: 114
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 PARIS 2725
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 14 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 APR 2003 by KelleyW0>; APPROVED <19 MAY 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COUNTERVAILING DUTY INVESTIGATION: FLOAT GLASS
TAGS: ETRD, EC
To: PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006